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OFFICE OF PETITIONS

In re Application of
Spitzer et al.
Application No. 10/023,188
Patent No. 6,905,727
Filed: June 14, 2005
Attorney Docket No. ACO 2843 US

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: **DECISION GRANTING PETITION**
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This decision is in response to Applicant's "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON PATENT ISSUED UNDER 37 CFR 1.705(D)" timely¹ file on June 27, 2005 requesting that the Patent Term Adjustment be adjusted from one hundred and ninety three (193) days to the amount of three hundred and thirteen (313) days. This petition is being considered pursuant to 37 CFR 1.705(d).

Applicant's petition is **GRANTED**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of 313 days rather than the 193 day amount printed on the front of the patent.

Applicant argues that the Office erred in asserting an applicant delay of one hundred and twenty (120) days for the submission of drawings after the mail date of the notice of allowance. Applicants assert that the drawings submission occurred on January 14, 2004, not October 24, 2004.

Applicant's arguments are persuasive. A review of the file reflects that drawings were filed on January 14, 2004 not October 24, 1004. The drawings of October 24, 2004 were copies of drawings of January 14, The application does not reflect the submission of any drawings after the mail date of the notice of allowance. Accordingly, the Office erred by entering into PALM a drawing submission after the mail date of the notice of allowance. Accordingly, the one hundred and twenty (120) day reduction is in error because applicant did not fail to engage in any reasonable efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(c)(10). Accordingly, the proper amount of PTA at the time of the issuance of the patent is three hundred and thirteen days (313) as asserted by applicant.

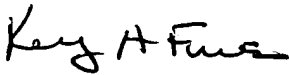
¹Patent issue date July 14, 2005

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After review of this decision, this application will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

The Office acknowledges the receipt of \$200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation
Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,905,727 B2
DATED : Jun. 14, 2005
INVENTOR(S) : Spitzer et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (193 days

Delete the phrase "by 193 days" and insert – by 313 days--